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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/217,347	12/21/1998	JOHN G. FIJOLEK	98666	8453

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EXAMINER

KOENIG, ANDREW Y

ART UNIT PAPER NUMBER

2611

DATE MAILED: 11/17/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/217,347

**Applicant(s)**

FIJOLEK ET AL.

**Examiner**

Andrew Y Koenig

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31,34,37-43,46,47 and 49-66 is/are rejected.
- 7) ☒ Claim(s) 32,33,35,36,44-46 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. In view of the appeal brief filed on 05 August 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 31-66 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

3. Claims 32-33, 35-36, 44-46, and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31, 34, 37-43, 46-47, 49-54, 56-58, and 60-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,223,222 B1 to Fijolek et al. in view of U.S. Patent 6,438,110 to Rai et al.

Regarding claims 31, 34, 37, 49, 64, 65, Fijolek teaches a registration process for a cable modem in a data-over cable system for enabling quality of service identifiers (Abstract). Fijolek teaches, during initialization, the cable modem registering Class of Service (CoS) and Quality of Service (QoS) parameters with the CMTS (col. 29, ll. 41-52). In this case, the CoS services and QoS are not necessarily activated but identified for a later time, as shown in figure 19, which permits a cable modem at a later time make a QoS request. Accordingly, Fijolek teaches during initialization receiving parameters associated with a plurality of capabilities used for carrying out at least one deferred session-based service between at least one service device and the cable modem, the examiner notes that the claimed "deferred session-based service," is given the broadest reasonable interpretation in the art, which is a service that is time-wise deferred (however the length of time of deferment is unknown). Fijolek discloses that the QoS server could be integral to the DHCP server (col. 29-30, ll. 53-7). Fijolek teaches requesting for a quality of service (fig. 19), which reads on sending the deferred inactive service identifier to the first network device and the establishing a link using the

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parameters between the first and second network devices (col. 33, ll. 35-65). Clearly, Fijolek creates a service session profile for the desired service, such as assigning a downstream frequency, or an upstream channel ID to the cable modem, in order to communicate effectively between the CMTS and cable modem. Fijolek is silent on the system resources are registered with, but not allocated. Rai teaches a system scheduling bandwidth via a request specifying the start time and duration (or end time) (col. 6, ll. 42-49, col. 8, ll. 5-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fijolek by registering system resources, but not allocating them as taught by Rai in order to ensure that the amount of traffic on a particular route of links between source and destination nodes will not exceed a maximum bitrate capacity of each link in that route at any time during the connection (Rai: col. 6, ll. 30-41), thereby maintaining the data without corrupting it (Rai: col. 1, ll. 35-58, col. 2, ll. 3-5).

Regarding claims 38, 50, 63, and 66, Fijolek teaches storing instructions on a computer readable medium for execution by a CPU (col. 10, ll. 10-18).

Regarding claims 39 and 51, Fijolek teaches a first network device as a cable modem and a second network device cable modem termination system (fig. 17).

Regarding claims 40, 52, and 61, Fijolek teaches a SID, which reads on an inactive service identifier as a Medium Access Control (MAC) Protocol Service identifier (col. 10, ll. 20-46).

Regarding claim 41, Fijolek teaches a service parameter of class-of-service (col. 3-4, ll. 40-2).

Regarding claim 42, Fijolek teaches the first message as a registration request (claimed registration) and a second message as a registration response (fig. 17).

Regarding claim 43, Fijolek teaches the registration response encoded in Type-Length-Value (TLV) format (col. 10, ll. 20-46).

Regarding claims 46 and 54, Fijolek is silent on teaches a Remote Authentication Dial In User Server (RADIUS). Official Notice is taken that a RADIUS is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fijolek by using a RADIUS in order to support Dial In connections for the users thereby supporting multiple interfaces.

Regarding claims 47 and 53, Fijolek teaches authorization and authentication (col. 8, ll. 10-15; see also table 1).

Regarding claim 56, the limitations of claim 56 have been addressed in the discussion of claims 31 and 33.

Regarding claim 57, Fijolek teaches storing instructions on a computer readable medium for execution by a CPU (col. 10, ll. 10-18).

Regarding claim 58, Fijolek teaches a SID, which reads on an inactive service identifier as a Medium Access Control (MAC) Protocol Service identifier (col. 10, ll. 20-46).

Regarding claims 60 and 62, the limitations of claims 60 and 62 have been addressed in the discussion of claims 31 and 32.

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6. Claims 55 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,223,222 to Fijolek et al. in view of U.S. Patent 6,337,858 to Petty et al.

Regarding claims 55 and 59, Fijolek is silent on Voice over Internet Protocol. Petty teaches using Voice over Internet Protocol (VoIP) (col. 5, ll. 60-62) via cable modems (col. 6, ll. 21-22). Furthermore, Petty teaches call requests as shown in figures 6-10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fijolek by supporting VoIP as taught by Petty in order to enable the user to have phone conversations without using the Plain Old Telephone Service (POTS) system.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CHRIS GRANT  
PRIMARY EXAMINER